UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
WRIGHT, BRYAN F

ART UNIT	PAPER NUMBER
2431	

NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

	Application No.	Applicant(s)
Office Action Summary	10/534,679	PERA ET AL.
	Examiner	Art Unit	
	BRYAN WRIGHT	2431	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>09 December 2008</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-21</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-21</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   This action is in response to Amendment filed 10/9/2008.

2.   Claims 1-21 are pending.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3.   Claims 8 -11, 17, and 19-21 are rejected under 35 U.S.C. 102(b) as being

anticipated by Carapelli (US Patent No. 6119,110).

4.   As to claim 8, Carapelli teaches a method for monitoring an electronic instrument

for metrological measurements, comprising: receiving (e.g., loaded) information (e.g.,

keys) associated with a handling application (e.g., microprocessor firmware) for the

instrument and locally stored [col. 3, lines 55-60],

issuing a certification code associated with the handling application (e.g.,

microprocessor firmware) based on the information and operable to indicate that

integrity of the handling application (e.g., microprocessor firmware) has been

maintained [col. 4, lines 15-35].

5.   As to claim 9, Carapelli teaches a method where producing a code includes

processing said information using a cryptography algorithm (e.g., DES encryption [col.

3, lines 30-35]).

6.   As to claim 10, Carapelli teaches a method where tile received information

comprises an authenticity certificate (e.g., private key) of the handling application (col.

4, lines 15-250.

7.   As to claim 11, Carapelli teaches a method according where tile received

information comprises an acknowledgement code (e.g., input code) of said local unit

(col. 4, lines 25-32).

8.   As to claim 17, Carapelli teaches a method further comprising: determining a

violation (e.g., tampered) of the integrity of the handling application [col. 4, lines 29-32];

and generating an alert in response to the violation [col. 4, lines 20-35].

9.   As to claim 19, Carapelli teaches a method further comprising: determining that a

certification associated with the handling application (e.g., firmware) is invalid [col. 4,

line 15- 25]; and generating an alert in response to the determining the invalidity [col. 4,

lines 20-35].

10.   As to claim 20, Carapelli teaches a method further comprising generating a

stamp (e.g., code) indicating that the integrity of the handling application (e.g., firmware)

is verified (col. 4, lines 25-32).

11.   As to claim 21, Carapelli teaches a method where the information is received at

the start of the handling application (e.g., firmware) [fig. 2].

12.   Claims 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Carapelli in view of Finely et al. (US Patent No. 6,442,448 and Finely hereinafter).

13.   As to claim 18, the system disclosed by Carapelli shows substantial features of

the claimed invention (discussed in the paragraph above), it fails to disclose:

A method further comprising preventing the handling application from operating

in response to determining the violation.

However, these features are well known in the art and would have been an obvious

modification of the system disclosed by Carapelli as introduced by Finley. Finley

discloses:

A method further comprising preventing (e.g., not allowing the operating system

to boot) the handling application from operating in response to determining the violation

(to provide means to prevent further operation of tampered detected firmware [col. 20,

lines 20-27]).

Therefore, given the teachings of Finley, a person having ordinary skill in the art at the

time of the invention would have recognized the desirability and advantage of modifying

Carapelli by employing the well known features of certification for certifying software

code on a measuring instrument disclosed above by Finley, for which user measuring

device software authentication will be enhanced [col. 4, lines 15-35]).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

14.   Claims 1, 3-7, and 12-16 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Finley et al. (US Patent No. 6,442,448 and Finely hereinafter) in view

of Carapelli (US Patent No. 6119,110).

15.   As to claim 1, Finley teaches a control system of an electronic instrument for

metrological measurements, comprising:

a handling application operable to control the instrument [col. 7, lines 59-67; col. 8, lines 1-25]; and a control application operable to verify integrity of said handling application (i.e., … teaches an approved stamp version for verifying software application certification [col. 23, lines 55-65]), said control application operable to generate a certification code the handling application in response to verifying that the integrity is maintained (i.e., … teaches application validation [col. 24, lines 1-20]).

Finley does not expressly teach the claim limitation element of generating a certification code. However, these features are well known in the art and would have been an obvious modification of the system disclosed by Finley as introduced by Carapelli. Carapelli discloses: generating a certification code (to provide a certification code for purposes of certifying software code on an electronic measuring device [col. 4, lines 15-35]).

Therefore, given the teachings of Finley, a person having ordinary skill in the art at the time of the invention would have recognized the desirability and advantage of modifying Carapelli by employing the well known features of certifying software code on a measuring instrument disclosed above by Finley, for which user measuring device software authentication will be enhanced [col. 4, lines 15-35]).

16.   As to claim 3, Finley teaches control system where said control application and said handling application are communicably coupled via a network [fig. 14].

17.   As to claim 4, Finley teaches a control system characterized in that it includes a dynamic library associated with said handling application, which, at the start of a handling application, activates said control application (col. 6, lines 40-50).

18.   As to claim 5, Finley teaches a control system where said dynamic library is locally stored (col. 10, lines 10-20).

19.   As to claim 6, Finley teaches a control system where said dynamic library is situated in said central processing unit (col. 7, lines 50-55).

20.   As to claim 7, Finley teaches a control system where said univocal (i.e., having only one possible value) code is obtained using a cryptography algorithm (col. 23, lines 59-62).

21.   As to claim 12, Finley teaches a system where the controller is further operable to generate an alert in response to determining a violation of the integrity of the handling application [col. 24, lines 45-55].

22.   As to claim 13, Finley teaches a system where the violation comprises an unregistered modification of the handling application (i.e., .. teaches an error in which the system has been tampered with [col. 20, lines 20-30]).

23.   As to claim 15, Finley teaches a system where the controller is further operable

to verify whether a certification associated with the handling application (e.g., firmware)

is valid (col. 4, lines 15-25).

24.   As to claim 16, Finley teaches a system where the certification is verified using a

digital signature [col. 20, lines 15-30].

25.   As to claim 14, Finley teaches a system where the controller is further operable

to prevent the handling application from operating in response to determining the

violation [col. 15, lines 40-50].

26.   Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Finely in

view of Carapelli as applied to claim 1 above, and further in view of Johnson (US Patent

No. 6904592).

27.   As to claim 2, the system disclosed by the combination of Finley in view of

Carapelli shows substantial features of the claimed invention (discussed in the

paragraph above), it fails to disclose:

A control system where said code is associated with a stamp comprising an issuing date of said stamp a reference code of the metrological measurement instrument, and a barcode corresponding to said code.

However, these features are well known in the art and would have been an obvious modification of the system disclosed by the combination of Finley and Carapelli as introduced by Johnson. Johhson discloses:

A control system where said code is associated with a stamp comprising an issuing date of said stamp a reference code of the metrological measurement instrument, and a barcode (e.g., record) corresponding to said code (to provide a record of software maintenance [372, 374, fig. 5]).

Therefore, given the teachings of Johnson, a person having ordinary skill in the art at the time of the invention would have recognized the desirability and advantage of modifying the combination of Finley and Carapelli by employing the well known features of a software down record disclosed above by Finley, for which user measuring device software maintenance will be enhanced [col. 4, lines 15-35]).

Response to Amendment

Applicant's arguments, see applicant remarks, filed 10/09/2008, with respect to the rejection(s) of claim(s) 1-21 under have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Finely, Carapelli and Johnson.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRYAN WRIGHT whose telephone number is (571)270-3826. The examiner can normally be reached on 8:30 am - 5:30 pm Monday -Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, AYAZ Sheikh can be reached on (571)272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/BRYAN WRIGHT/
Examiner, Art Unit 2431

/Kimyen Vu/

Supervisory Patent Examiner, Art Unit 2435